

MEM # 14-0206

**MEMORANDUM OF AGREEMENT
BETWEEN SANTA FE COUNTY AND
THE CITY OF SANTA FE
FOR THE SANTA FE RIVER GREENWAY PROJECT**

This Memorandum of Agreement is entered into this 28th day of March 2014, (the "Agreement") by and between Santa Fe County, hereinafter referred to as the "County," and the City of Santa Fe, a municipal corporation, hereinafter referred to as the "City".

WHEREAS, in the spirit of cooperation, mutual respect and service to the residents of Santa Fe County, this Agreement confirms the parties' continuing commitment and mutual cooperation which recognizes that partnering activities between governmental entities of similar purposes may produce community and constituency benefits beyond what might be produced independently;

WHEREAS, the Santa Fe River Greenway Project is a joint City and County effort that involves the construction of a multi-use trail and parks along 15 miles of the Santa Fe River and restoration of the scenic landscape of the Santa Fe River from Santa Fe to the area where the Santa Fe River passes under NM 599 southwest of Santa Fe;

WHEREAS, in 2004 the County and City entered into a Memorandum of Agreement (the "2004 MOA") which provided for the County's expenditure of GRT funding for the Santa Fe River Trail Project from Camino Alire to State Highway 599 for the "Joint Regional Trails and Open Space Santa Fe River Trail Project." Pursuant to the 2004 MOA the City was reimbursed by the County for design services procured by the City for the Santa Fe River Trail Project *aka* the Santa Fe River Greenway Project from Camino Alire to Siler Road;

WHEREAS, the 2004 MOA expired June 30, 2011 and the City and County continue to cooperate to complete the design and construction of the Santa Fe River Greenway Project. The purpose of this Memorandum of Agreement is to formalize the continuing agreement between the City and County for completion of the Santa Fe River Greenway Project from Camino Alire to State Highway 599;

WHEREAS, the City owns a portion of Camino Carlos Rael and a drainage and pedestrian access easement on north side of the Santa Fe River where Camino Carlos Rael formerly crossed the Santa Fe River;

WHEREAS, the County, in order to continue the design and construction of the Santa Fe River Greenway and to maintain the Santa Fe River Greenway in the area where Camino Carlos Rael formerly crossed the Santa Fe River, needs access and use of the City's road and park right-of-way on Camino Carlos Rael;

WHEREAS, the City is willing to grant the County use and access of the City's right-of-way on Camino Carlos Rael as provided in this Agreement;

WHEREAS, the Santa Fe River Greenway Project continues to be a joint County and City project. Due to the unique nature and geographic linking of both County and City jurisdictions along the project length, the Santa Fe River Greenway project continues to be developed in coordination and consultation between the County and City in order to ensure that a continuous facility is created with uniform design and functionality that serves both County and City residents.

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

1. PROJECT SCOPE:

A. The City has a road and park right-of-way on Camino Carlos Rael on the north side of the Santa Fe River as indicated on the plat marked Exhibit A, attached hereto and incorporated herein by reference.

B. The County needs access to the City's right-of-way on Caminos Carlos Rael to construct and maintain the Santa Fe River Greenway.

C. The City is willing to grant a License for Access and Use to the County as indicated in Exhibit B, attached hereto and incorporated herein by reference.

2. TERM: This Memorandum of Agreement shall become effective on the date of execution and shall remain in effect until June 30, 2017, unless terminated by any party pursuant to Article 3 below.

3. TERMINATION:

Termination for Cause. If the parties fail to fulfill in a timely and proper manner their obligations under this Agreement, or if the parties violate any of the covenants, agreements or stipulations of this Agreement, the parties shall thereupon have the right to suspend or terminate this Agreement by giving written notice to the other party of such termination and specifying the effective date thereof. Notwithstanding the above, the parties shall not be relieved of liability to the other party for damage sustained because of any breach of the Agreement.

4. LIABILITY: Each party shall be solely responsible for fiscal or other sanctions occasioned as a result of its own violation of requirements applicable to the performance of the Agreement.

5. THIRD PARTY BENEFICIARIES

By entering into this Agreement, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the County and City. No person shall claim any right, title or interest under this Agreement seek to enforce this Agreement as a third party beneficiary of this Agreement.

6. ASSIGNMENT

Neither the City nor the County shall assign or transfer any interest in this Agreement or assign any claims under this Agreement without the prior written approval of the other party.

7. APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the parties for the performance of this Agreement. If sufficient appropriations and authorizations are not granted, this Agreement shall terminate upon written notice. The decision as to whether sufficient appropriations and authorizations are available shall be accepted by the parties and shall be final.

- 8. AMENDMENT:** This Agreement shall not be altered, changed, or amended except by an instrument executed in writing signed by all parties.

9. TORT CLAIMS ACT

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. The Agreement is subject to the immunities and liabilities of the New Mexico Tort Claims Act, NMSA 1978 § 41-4-1, et seq.

10. CONFLICT OF INTEREST

A. Interest of Members of the City. No officer, employee or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of any of the provisions of this Agreement, or any other person who exercises any functions or responsibilities in connection with any of the provisions of this Agreement, shall have any personal financial interest, direct or indirect, in this Agreement.

B. Interest of County Employees. The County shall not allow any person who presently exercises any functions or responsibilities in connection with the provisions of this Agreement, to have personal financial interests, direct or indirect in this Agreement. The County shall not allow in the performance of this Agreement any person having any conflicting interest to be employed by the County. Any interest on the part of the County or its employees shall be disclosed to the City.

Provided, however that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the requirement that maximum opportunity for employment of area residents and resident participation shall be of primary concern to the County.

11. DISPUTE RESOLUTION

In the event of any dispute between the parties regarding the enforcement, effect or interpretation of this Agreement, the parties shall attempt to informally resolve the dispute. If that is unsuccessful the parties shall resolve the dispute through mediation by a mediator mutually agreed upon by the parties with the parties sharing any costs equally.

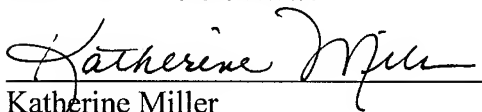
12. SCOPE OF MEMORANDUM OF AGREEMENT

This Memorandum of Agreement incorporates all the Agreements, covenants, and understanding between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understanding have been merged into this written Agreement. No prior agreement, covenant or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

13. APPLICABLE LAW: This Agreement shall be governed by the ordinances of the City and County of Santa Fe and the laws of the State of New Mexico.

IN WITNESS WHEREOF, the parties set their hands:

SANTA FE COUNTY:

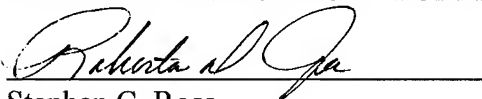


Katherine Miller
County Manager

6.19.13

Date

APPROVED AS TO LEGAL FORM:



Stephen C. Ross
County Attorney

6/17/13

Date

FINANCE DEPARTMENT APPROVAL:




Teresa C. Martinez, Director

6/17/13

Date

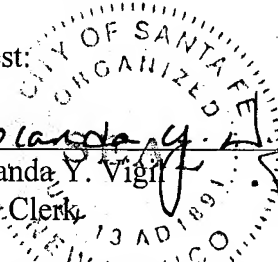
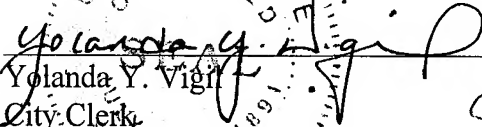
CITY OF SANTA FE



Brian K. Snyder
City Manager

03/18/2014
Date


Attest:

Yolanda Y. Vigil
City Clerk

3-31-14
Date

Approved as to Form:



Kelley Brennan, Interim
City Attorney

2/28/14
Date



Marcos A. Tapia
City Finance Director

3/25/14
Date

LICENSE FOR ACCESS AND USE

This License for Use ("License") is granted by the City of Santa Fe, New Mexico, a municipality, (hereinafter "City"), 200 Lincoln Ave., Santa Fe, New Mexico 87501 to Santa Fe County, New Mexico, a political subdivision of the State of New Mexico, (hereinafter "County") for the purpose of allowing access to a road and park right-of-way owned by the City on Camino Carlos Rael that leads to the Santa Fe River.

Whereas, the City has a road and park right-of-way on Camino Carlos Rael on the north side of the Santa Fe River as indicated on the Exhibit A, attached hereto and incorporated hereinafter.

Whereas, the City desires to provide this License to the County so the County can access and maintain the Santa Fe River Greenway.

Therefore, the City grants to the County this License for ingress and egress on Camino Carlos Rael in the area described on Exhibit A for an indefinite period of time. Additionally, at such time that the City's needs or requires that the area of ingress and egress be altered, the City will grant the County an easement across the Property or amend this License for Use to provide maintenance access to the Santa Fe River Greenway.

CITY OF SANTA FE

By Brian K. Snyder
City Manager

03/28/2014
Date

Attest:

Approved as to Form:

By Yolanda Y. Vigil
Yolanda Y. Vigil, City Clerk

By Kelley Brennan
Interim City Attorney 3/24/14

City Finance Department

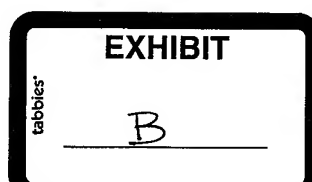
By Marcos A. Tapia
Marcos A. Tapia, Finance Director

3/25/14
Date

SANTA FE COUNTY

By Katherine Miller
Katherine Miller, Manager

6.19.13
Date



Approved as to form

By 
Stephen C. Ross, County Attorney

6/17/13
Date

Finance Department

By 
Teresa C. Martinez, Director

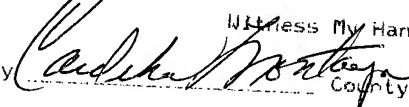
6/17/13
Date



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

MEMORANDUM OF AGREEMENT
PAGES: 8

I Hereby Certify That This Instrument Was Filed for
Record On The 2ND Day Of April, 2014 at 09:10.25 AM
And Was Duly Recorded as Instrument # 1733605
Of The Records Of Santa Fe County

Deputy  Witness My Hand And Seal Of Office
Geraldine Salazar
County Clerk, Santa Fe, NM